

IN THE DISTRICT OF THE UNITED STATES OF AMERICA  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

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DANE HARREL, et al.,

Plaintiffs,

v.

KWAME RAOUL, et al.,

Defendants.

Case No. 23-cv-141-SPM

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FEDERAL FIREARMS LICENSEES OF  
ILLINOIS, et al.,

Plaintiffs,

v.

JAY ROBERT "J.B." PRITZKER, et al.,

Defendants.

Case No. 23-cv-215-SPM

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CALEB BARNETT, et al.,

Plaintiffs,

v.

KWAME RAOUL, et al.,

Defendants.

Case No. 23-cv-209-SPM

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JEREMY W. LANGLEY, et al.,

Plaintiffs,

v.

BRENDAN KELLY, et al.,

Defendants.

Case No. 23-cv-192-SPM

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Transcript of Status Conference/Motion Hearing  
February 24, 2023  
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Transcript of Status Conference/Motion Hearing  
February 24, 2023

Proceedings held by Zoom Videoconference before  
the Honorable **STEPHEN P. McGLYNN**,  
United States District Judge Presiding

East St. Louis, Illinois

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**REPORTED BY:**

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Following proceedings recorded by mechanical stenography;  
transcript produced by computer-aided transcription.

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**TRANSCRIPT OF PROCEEDINGS**

(Proceedings commenced at 10:05 a.m.)

THE COURTROOM DEPUTY: United States District Court for the Southern District of Illinois is now in session, the Honorable Stephen McGlynn presiding.

Court calls Case Number 23-141, Dane Harrel, et al., v. Kwame Raoul, et al.; Case Number 23-192, Jeremy Langley, et al., v. Brendan Kelly, et al.; Case Number 23-209, Caleb Barnett, et al., v. Kwame Raoul, et al.; And 23-215, Federal Firearms Licensees of Illinois, et al., v. Jay Robert Pritzker, et al. Case is called for a status hearing.

Parties, if you would please identify yourselves for the record.

THE COURT: Let's start with the lawyers who are lawyers of record in Harrel v. Raoul.

MR. SIGALE: Good morning, Your Honor. David Sigale, S-i-g-a-l-e, on behalf of the Plaintiffs in Harrel, 141.

MR. WELLS: Good morning, Your Honor. This is Christopher Wells from the Illinois Attorney General's Office on behalf of the state defendants in that case, Attorney General Raoul and Governor Pritzker and ISP Director Kelly.

MS. BAUTISTA: Good morning, Your Honor. Laura Bautista from the Illinois Attorney General's Office also on behalf of the state defendants, Attorney General Raoul, Governor Pritzker, and Director Kelly.

1 THE COURT: All right. And then we have  
2 Defendants Gomric and Watson.

3 MR. YSURSA: Thomas Ysursa for Defendants Gomric  
4 and Watson.

5 THE COURT: And then Defendant Jeremy Walker and  
6 Sheriff Peters, Randolph County.

7 MR. GODFREY: Judge, James Godfrey on behalf of  
8 those defendants.

9 THE COURT: All right. And then once again, we  
10 have Defendants Patrick Kenneally and Sheriff Tadelman of  
11 McHenry County. Anyone appearing on their behalf?

12 THE COURTROOM DEPUTY: Judge, actually getting  
13 Mr. Owens in, admitting him right now.

14 THE COURT: All right.

15 MR. SIGALE: Your Honor, Mr. Owens is --

16 MR. OWENS: Your Honor, I apologize for the  
17 delay. We had an ice storm yesterday and my wi-fi has been  
18 weird. I'm actually doing this through my cell phone. I  
19 apologize for that.

20 THE COURT: Not a problem. I had a case where  
21 someone was apologizing for being 15 minutes late. And after a  
22 long heartfelt apology, I had to point out to him that I had  
23 been 12 minutes late, so it was not that big a deal in the grand  
24 scheme of things. So you haven't missed anything.

25 Just go ahead and identify your record --



1           yourself for the record.

2                   MR. OWENS: Your Honor, my name is Troy Owens. I  
3 represent the McHenry County State's Attorney's Office, Patrick  
4 Kenneally, and Sheriff Rob Tadelman in McHenry County.

5                   THE COURT: All right. Next we have Langley v.  
6 Brendan Kelly, et al. Who's appearing for Plaintiffs?

7                   MR. T. MAAG: Thomas Maag for Plaintiffs.

8                   MR. P. MAAG: Peter Maag for Plaintiffs.

9                   THE COURT: All right. And then for Defendant  
10 Kelly?

11                  MR. WELLS: Your Honor, Christopher Wells from  
12 the Attorney General's Office on behalf of Defendant Kelly.

13                  MS. BAUTISTA: Also Laura Bautista for Defendant  
14 Kelly from the Illinois Attorney General's Office.

15                  THE COURT: And then in this case, we also have  
16 Defendant Shaner, Crawford County.

17                  MR. HILL: Good morning, Your Honor. Keith Hill  
18 on behalf of Crawford County, Cole Shaner.

19                  THE COURT: All right. Next case, Barnett v.  
20 Raoul. Who's appearing for Plaintiff?

21                  MS. MURPHY: Good morning, Your Honor. Erin  
22 Murphy on behalf of Plaintiffs.

23                  MR. ROWEN: Good morning, Your Honor. Matthew  
24 Rowen on behalf of Plaintiffs as well.

25                  THE COURT: All right. And of course Christopher

1 and Laura, you're representing the defendants in that case as  
2 well.

3 And then finally Federal Firearms Licensees of  
4 Illinois v. Pritzker. Who's on for Plaintiffs?

5 MR. SHAW: Mark Shaw on behalf of plaintiffs.

6 MR. MICHEL: And Carl Michel on behalf of  
7 Plaintiffs as well, Your Honor.

8 MS. NEUBAUER: Jennifer Neubauer on behalf of  
9 Plaintiffs, Your Honor.

10 MR. MOROS: And Konstadinos Moros on behalf of  
11 Plaintiffs. Good morning, Your Honor.

12 THE COURT: All right. Anyone on behalf of Sean  
13 Brady, his firm? Anybody on for Jasmine Young? Did you already  
14 announce? There's so many.

15 MR. MICHEL: Sean Brady won't be appearing today,  
16 Your Honor. We have me and Kostas covering.

17 THE COURT: All right. And again in that case,  
18 we have Mr. Wells and Ms. Bautista. All right.

19 I set this for a hearing because I did receive  
20 your stipulation, your proposed stipulation and order. And I  
21 wanted to just talk through that for a little bit and get an  
22 idea of what we need to do to get this case moving forward.

23 Of course our local rules state that reply briefs  
24 are not favored and are allowed only for exceptional  
25 circumstances, and that surreply briefs are never allowed. And

1 I know that in the proposal, the proposed order, there is a  
2 notion that there could be up to 80 pages in reply briefs filed  
3 to the government -- the defendant's response to the request for  
4 injunctive relief.

5 Who for Plaintiffs wants to tell me why it's --  
6 these are exceptional circumstances?

7 MR. MICHEL: Well, I guess I could weigh in on  
8 that, Your Honor. I've kind of --

9 THE COURT: So identify yourself for the record.

10 MR. MICHEL: Carl Michel appearing for the FFL  
11 Illinois Plaintiffs.

12 THE COURT: All right.

13 MR. MICHEL: I was the one who sort of wrangled  
14 the cats to put that -- coordinate that stipulation and I want  
15 to thank all counsel for their cooperative efforts to try and  
16 come up with that.

17 The reason that we think *Hayes* limitations and  
18 the reply brief probably need to be -- there needs to be an  
19 exception to local rules is the -- our motion for preliminary --  
20 all of our motions for preliminary injunction kind of set the  
21 stage, but then it's the state's -- assuming that the state  
22 agrees, the state's burden to establish historical analogs that  
23 would justify the state's laws. And so we expect if it's  
24 anything like what's been filed in some other states in other  
25 parts of the country, that that will be fairly voluminous, will

1 include expert declarations, perhaps some exhibits. I know the  
2 Court has asked for sort of a pictorial exhibit. And so that is  
3 something that the plaintiffs are going to need an opportunity  
4 to rebut because most of that stuff will be new.

5 We won't -- you know, it will be their burden.  
6 It will have to rebut that burden. So we attempted to set it up  
7 so that the defendants -- excuse me, the plaintiffs can divvy up  
8 that 80 pages any way they want, and maybe we won't need it all,  
9 but we don't know what we're going to see from the defendants'  
10 opposition. So to make sure we had enough room, we allocated  
11 that much. But that's in the aggregate. That's a total of  
12 80 pages between four briefs.

13 The idea -- one side, 20 pages each. And then  
14 since we don't want to say the same thing four times, the  
15 plaintiffs can sort of allocate some more of their pages to  
16 another plaintiff and just join their opposition, if that makes  
17 sense, once we all meet and confer and see what the defendants  
18 submit.

19 MR. SIGALE: If I may add to that very briefly,  
20 Your Honor. David Sigale for the Harrel plaintiffs. The  
21 defendants -- the state defendants actually filed a motion for  
22 extension a couple weeks ago, which the Court has already ruled  
23 on. And as part of the basis for their motion, the state  
24 defendants flat out stated that they were already looking to  
25 retain at least two expert witnesses that they name, and then

1       stated that they plan to retain several more. So based on that,  
2       just to further what Mr. Michel said, based on what we believe  
3       is coming, we would like that opportunity to respond to that,  
4       and that's why the reply briefs we believe are warranted in this  
5       circumstance.

6               THE COURT: All right. It's my opinion that  
7       these cases ought to be consolidated for purposes of hearing an  
8       oral argument if it's requested. Anybody have an objection or  
9       reason they want to express why these cases should not be  
10      consolidated?

11             MR. MICHEL: Could I ask a question, Your Honor?  
12      When you say "consolidated," I think four cases combined into  
13      one as opposed to coordinated, which would still be four  
14      separate cases but managed on the Court's docket as, you know,  
15      on the same -- for all the same hearing dates. Am I missing a  
16      distinction or drawing a falsehood?

17             THE COURT: Anybody want to be heard on that? My  
18      intention -- it's my intention -- no one's requested oral  
19      argument. Let's get -- let's do this. Does anybody expect  
20      there to be an evidentiary hearing on this where witnesses are  
21      called and witnesses are cross-examined?

22             MR. WELLS: So, Your Honor, I can speak on behalf  
23      of the state. I think we would of course be willing to do that  
24      if the Court would appreciate it, if you would find it necessary  
25      after you see our papers. Our present intention is to argue

1 this on the papers with our declarations. To the extent the  
2 Court wants to hear from our experts in person, we're of course  
3 happy to do that, but our intention is to proceed on the papers.

4 MR. MICHEL: I think I can speak for all  
5 plaintiffs based on conversations I had in negotiating the stip,  
6 that that's our hope too. We don't --

7 THE COURT: All right. And again --

8 MR. MICHEL: Up to the Court.

9 THE COURT: Again, we have at least a dozen  
10 lawyers on, so any time you speak, so that my court reporter can  
11 get it correct, you should identify who's speaking.

12 MR. OWENS: Your Honor, may I ask --

13 THE COURT: Wait, the last speaker was --

14 MR. MICHEL: Carl Michel, Your Honor.

15 THE COURT: Mr. Owens, you wanted to say  
16 something?

17 MR. OWENS: Yes, Your Honor. In terms of  
18 consolidating the pleadings and the filings, to me, I just want  
19 to be clear, would each of the litigants be permitted to file  
20 their own brief? I mean, for instance, I have a very strong  
21 suspicion that my brief is going to be almost polar opposite of  
22 the state defendants' brief, and I don't know that -- we're also  
23 both in the stage in litigation, where, you know, Plaintiffs  
24 were consolidated and had to file a consolidated brief. There's  
25 going to be no way of reconciling how my office responds to how

1 the state defendants respond. So would we be permitted to file  
2 our own briefs?

3 MR. WELLS: Your Honor, if I could speak to that.  
4 This is Chris Wells from the Attorney General's Office. I'm  
5 happy to address it if the Court would allow me.

6 THE COURT: Please proceed.

7 MR. WELLS: So I understand Mr. Owens'  
8 perspective. We certainly -- the brief that we are going to be  
9 filing is going to be on behalf of the state-level defendants,  
10 so they're a little bit different from case to case. But it  
11 will be the attorney general, ISP Director Kelly, and  
12 Governor Pritzker. Certainly if there are state's attorneys who  
13 would like to join portions of that, they are welcome to do  
14 that. We're happy to have those conversations.

15 As for Mr. Kenneally, he can -- we wouldn't have  
16 an objection to him filing a brief. I can tell Your Honor that  
17 he has a separate lawsuit pending against the attorney general  
18 on this issue in the Northern District, where we'll be briefing  
19 both sides of this issue there. So just for the Court's  
20 awareness, that's our perspective.

21 THE COURT: Does anybody anticipate requesting  
22 oral argument?

23 MR. T. MAAG: Yes, for Langley.

24 THE COURT: Okay. Anybody else?

25 MR. SIGALE: David Sigale for Harrel. I had

1 anticipated an oral argument of some sort as well.

2 MS. MURPHY: Erin Murphy for the Barnett  
3 Plaintiffs. You know, we basically defer to Your Honor on  
4 whether you think oral argument would be helpful. We're very  
5 happy to do that. If you're comfortable with ruling on the  
6 papers, we're happy with that as well.

7 MR. MICHEL: Carl Michel for the FFL Illinois  
8 Plaintiffs. I join Ms. Murphy's sentiments.

9 MR. WELLS: Your Honor, this is Christopher Wells  
10 from the Attorney General's Office. We share the same position  
11 as Ms. Murphy. If it would benefit the Court, we're happy to do  
12 it, but we don't intend to make the request on our own.

13 MR. SIGALE: And okay, David Sigale again for  
14 Harrel. Yes, I guess to clarify, I would agree with that  
15 sentiment. If the Court wishes oral argument, we certainly  
16 would be ready and of course willing to do that. If the Court  
17 doesn't want it, we're not going to -- we're not going to insist  
18 over the Court's wishes of course.

19 THE COURT: All right. For purposes of  
20 consolidation, there's going to be a briefing schedule that  
21 applies to all parties. If there's oral arguments, applies to  
22 all parties. I will designate a particular case as lead case.  
23 I do not anticipate if I set it for oral argument that every  
24 lawyer's going to get to get up and make the same argument.

25 The only parties that have raised -- the only



1 plaintiffs that have raised issues other than the issues raised  
2 in Harrel, Barnett, and Federal Firearms Licenses is Langley.  
3 So I would give the Langley Plaintiffs' attorneys the  
4 opportunity to argue Fifth and Fourteenth Amendments that  
5 they've advanced. But I anticipate if I set this for oral  
6 argument, that I designate a particular case to be the lead  
7 case, and their counsel would argue.

8 Now if among the lawyers, they decide that one  
9 lawyer will argue a particular aspect and then hand it off to  
10 somebody else, I don't have a problem with that. But that's  
11 what I'm talking about with respect to consolidation.

12 MR. WELLS: Your Honor, this is Mr. Wells, if I  
13 may just be heard on one point about that.

14 THE COURT: Yeah.

15 MR. WELLS: So I think from our perspective, that  
16 all sounds fine. I would just note that one part of the  
17 stipulation as it relates to the briefing, the preliminary  
18 injunction motions, which is what I think we were primarily  
19 focused on, a piece of that is that the Langley Plaintiffs agree  
20 not to proceed on their arguments as it relates to the Fifth  
21 Amendment and Fourteenth Amendment for purposes of the  
22 preliminary injunction motions. I understand they're continuing  
23 to press those claims and we will litigate those at the  
24 appropriate time, but our understanding is that one of the  
25 benefits of the stipulation is that it streamlines the approach

1 to focus on the Second Amendment claims that are common across  
2 all the different plaintiffs.

3 THE COURT: Tom or Peter, do you agree with that?

4 MR. T. MAAG: That was the agreement that we  
5 reached, yes.

6 THE COURT: All right. Getting back to my  
7 original question about the necessity for reply briefs, if I  
8 understood your argument, you believe that the government's  
9 analysis in its response to the complaints that set out a great  
10 deal of the history of regulations on firearms and what type of  
11 firearms were generally available and when in history they were  
12 available, why do you say that -- I guess it was -- was it  
13 Mr. Michel that said you anticipate everything -- or Troy Owens  
14 maybe, that everything is going to be new from the state? How's  
15 that possible? We're talking about history.

16 MR. MICHEL: Carl Michel for the FFL Illinois  
17 Plaintiffs. I don't know that it's going to be new. Just -- I  
18 can say from litigating these cases in California that the state  
19 will make arguments that these perhaps are not in common use or  
20 that there is a historical analog in place that should satisfy  
21 the *Bruen* test to justify a modern firearms law. Those are the  
22 kinds of things that need to be rebutted in a reply so that, you  
23 know, if the state -- and also their experts, whatever the scope  
24 of their testimony may be, whether they're necessary at all,  
25 those kinds of things all have to be responded to in order for

1 the Court to judge the value and legitimacy of the state's  
2 position.

3 MR. MOROS: Your Honor, Kostas Moros. Just to  
4 build on what my senior attorney Chuck was saying, just to  
5 provide you an example, we do litigate these cases in  
6 California, and in a case we're doing right now concerning the  
7 magazine capacity limit, the state argued things like -- that  
8 fire safety laws from the 18th century and concealed carry  
9 restrictions and even racist laws from the 19th century, Jim  
10 Crow era and before, are all analogs to a magazine ban.

11 So although our complaints talk about this  
12 history, we don't really know what the state is going to throw  
13 at us because we can't -- we don't know what they think is an  
14 analog essentially. So to the extent maybe we've already  
15 covered some things perhaps, but to -- our complaint couldn't  
16 anticipate all their possible analogs, at least from experience  
17 of what we've seen from California.

18 MR. MICHEL: I can assure the Court, Your  
19 Honor -- Carl Michel again for FFL Illinois -- in talking to all  
20 of the plaintiffs as we worked out this stip, we are all  
21 interested in not being redundant and not wasting the Court's  
22 time with the same arguments over and over. So I think what  
23 we're brainstorming about is kind of divvying up topics so that  
24 the briefs are not the same brief. There are a lot of topics  
25 that the state will raise. I mean, what is an --

1 THE COURT: You raise a lot of topics in your  
2 complaint, you guys went through a lot of history, both history  
3 with respect to firearms regulations to firearms.

4 Mr. Shaw, you wanted to say something?

5 MR. SHAW: Sorry. The judge is probably aware  
6 of, I'm assuming, the case of Naperville, *Bevis v. Naperville*.  
7 It was handed down by Judge Kendall in the Northern District.  
8 There was a -- the opinion went into a lengthy discussion of  
9 knives, bowie knives, billy clubs, slingshots as being analogs.  
10 And so the concern would be -- we didn't address that stuff.  
11 The concern would be that all of a sudden, if for some reason  
12 the Court was directed to read that opinion, we wouldn't get a  
13 chance to deal with why we think it's wrong, because we're not  
14 certain that they are analogs.

15 THE COURT: I have read that opinion. I think  
16 the important thing -- hold on, Mr. Sigale. The important thing  
17 is, I don't need to be papered to death on this.

18 MR. SHAW: I agree.

19 THE COURT: I don't need to be papered to death.  
20 But the important thing is that I want the parties to be able to  
21 make the record they think they need to make. It's no mystery  
22 that however I rule, however my colleagues rule in the Northern  
23 District, this is going to work its way up the food chain. And  
24 when it gets to the Seventh Circuit, ultimately to make sure at  
25 least with respect to the case pending before me, Seventh

1 Circuit is comfortable that we have developed fully the record  
2 that we need to develop.

3 And so the record we need to develop is probably  
4 not as much briefs and memorandums as it is perhaps exhibits and  
5 the -- the plaintiff or the government has some experts that  
6 want to submit some affidavits from or material from. But I  
7 want to make sure that you have the opportunity to make the  
8 record that needs to be made so the Seventh Circuit has what it  
9 needs to evaluate this fully.

10 I don't know -- there was reference to California  
11 litigation earlier. One of the problems in the case that went  
12 to the Ninth Circuit was the Ninth Circuit thought that the --  
13 if I'm recalling properly, the Ninth Circuit thought that the  
14 underlying record wasn't fully developed so it needed to be  
15 remanded. And we don't want to do that. We want to just make  
16 sure that in our first swing at this, we get the record fully  
17 developed.

18 MR. WELLS: Your Honor, this is Mr. Wells, if I  
19 just may address a couple of points.

20 THE COURT: If you could speak up a little bit,  
21 I'd appreciate it.

22 MR. WELLS: Sure. I'm sorry, as you might  
23 imagine, the technology at the Attorney General's Office leaves  
24 a little bit to be desired.

25 I just wanted to speak to a couple things. One,

1 I do want to acknowledge Mr. Michel in particular for his  
2 professional courtesy and reasonableness in working out the  
3 terms of the proposed stipulation and working with counsel for  
4 the other plaintiffs.

5 With respect to the length of the briefs and then  
6 also the declarations, just -- I think Mr. Michel and others  
7 have been right to point out how these cases had been litigated  
8 in other states. I don't think they'll be particularly  
9 surprised by the state's approach here, which will be similar to  
10 other states. Of course I think we're going to do our best to  
11 do better than the other states, but the approach will be  
12 similar in terms of the quantity of briefing and materials  
13 submitted to the Court.

14 With respect to the length of the brief in  
15 particular, so as Your Honor acknowledged, I mean, the  
16 plaintiffs have filed a combined 105 pages in complaints and  
17 67 pages in preliminary -- initial briefing. I can tell you  
18 that at the time we discussed the stipulation, we were looking  
19 at 80 pages. We now have a draft that we're working to  
20 finalize. It will not -- it will be probably closer to 70. So  
21 I think that's where we are candidly.

22 And I think in terms of the length of the brief  
23 issue, the one thing that I would note from the state's  
24 perspective that's particularly important is, one, we do -- as  
25 this case will go up, we have to preserve our arguments for the

1 Seventh Circuit and potentially even United States Supreme  
2 Court. And in addition to that, while there are kind of  
3 categories of plaintiffs that -- sort of broadly three groups of  
4 plaintiffs, each of the different complaints has little pieces  
5 that are not overlapping and little factual assertions that we  
6 have to respond to.

7 So while I recognize coming in and asking for an  
8 80-page brief is a big ask, we do feel we need it in order to  
9 make the record as Your Honor stressed was something I think we  
10 all have an interest in doing here.

11 THE COURT: Well, Mr. Wells, I don't have a  
12 problem with giving the defendants 80 pages to respond to these  
13 lengthy complaints. There's four of them. They're lengthy.  
14 They raise a lot of issues. So I don't have a problem with  
15 that. But I am concerned about things just getting -- being  
16 overwhelmed with too much paperwork and not getting to the  
17 point.

18 I think that I will give each plaintiff 15 pages  
19 max to respond to -- or to reply to the government's response.  
20 I'm not going to -- I'm not going to save -- I'm not going to  
21 allow one plaintiff to extend their briefing if another  
22 plaintiff marshals the genius of brevity and uses only seven  
23 pages of their reply brief as opposed to all 15. So you're 15  
24 max in replies.

25 Because there's affidavits, normally we only

1 allow 10 or 14 days, but I will give 21 days to file your  
2 replies to the government's brief.

3 There are going to be other cases that are handed  
4 down probably. We might see appellate court cases in the state  
5 system. We might see cases in the other -- in other states that  
6 you think are cases that came out after you filed your brief.  
7 You can supplement the record with that by a simple pleading  
8 that gives a citation and a copy, a courtesy copy, but there are  
9 to be no argument associated with that.

10 Pardon me for a second. I'm going to ask one of  
11 my clerks a question.

12 (Discussion off the record.)

13 THE COURT: All right. What about -- so we've  
14 heard from the Attorney General's Office with respect to how  
15 many pages it needs to respond on behalf of the state  
16 defendants.

17 How about those who are representing county  
18 actors? Mr. Ysursa, how much -- how many pages do you think you  
19 need to respond?

20 MR. YSURSA: Your Honor, on behalf of my clients,  
21 I don't anticipate us really actively opposing it. We'll  
22 probably just file -- like Attorney General Wells had indicated,  
23 we'll probably just join or file a me-too brief. We're just  
24 really in the case waiting for the Court to tell us what the law  
25 is so that the state's attorney and sheriff know what the rules



1 of the game are.

2 THE COURT: All right. So I'll put in the --  
3 if -- we'll put in our order that I would grant the non-state  
4 defendants, the county officials, sheriffs, state's attorneys,  
5 I'll give them 20 pages of briefing if they think that they need  
6 it for whatever reason.

7 Okay. I do think oral argument -- I prefer oral  
8 argument. It goes back to my old appellate court days. There's  
9 a lot to be learned. And so I find it's always been -- it's  
10 always helpful. And I am going to designate Barnett v. Raoul to  
11 be the lead case for purposes of oral argument for the  
12 plaintiffs.

13 I'm looking at setting oral arguments the week of  
14 April -- either Tuesday, April the 11th, Wednesday, April the  
15 12th, Thursday, April the 13th. I anticipate setting aside an  
16 afternoon to allow for oral arguments, unless the parties prefer  
17 a morning. The reason I say afternoon is because we probably  
18 will have lawyers who are traveling in from different parts of  
19 the country or different parts of the state, and I want to give  
20 them adequate travel time to get here, get settled and prepare  
21 for their arguments.

22 Let's -- starting with -- because I'm designating  
23 Barnett case to be the lead, tell me about the availability of  
24 your firm, those days, April 11th, 12th, or 13th.

25 Ms. Murphy?

1 MS. MURPHY: Those dates work for us, Your Honor.

2 THE COURT: All right. Now I do have this  
3 caveat: I do oral argument in person. I don't do it via Zoom.  
4 That will work for you, Ms. Murphy?

5 MS. MURPHY: I understand. Yes.

6 THE COURT: All right. Let's go to Mr. Wells,  
7 Ms. Bautista. I know you guys have got a lot of these things  
8 going on. Will those dates work for you?

9 MR. WELLS: Your Honor, they would work for me.  
10 I would just say with one slight caveat, there's a preference,  
11 just a personal preference, of the 12th or the 13th, that prior  
12 weekend I believe is Easter and I may be -- my children --

13 THE COURT: You are the Easter bunny after all.

14 MR. WELLS: Don't tell them that.

15 THE COURT: I'll seal that part of the record.

16 MR. WELLS: So just a preference for either --  
17 not the Tuesday, but the Wednesday or Thursday. If the Tuesday  
18 is what the Court needs, I can make it work, but.

19 THE COURT: All right. Let's talk about  
20 Wednesday and Thursday, the 12th and 13th. Plaintiff lawyers on  
21 Harrel, do either of those days better than the other?

22 MR. SIGALE: David Sigale for the Harrel  
23 Plaintiffs. And the 12th would be better.

24 THE COURT: All right. Let's go to -- let me get  
25 my cheat sheet here. On -- how about Mr. Ysursa? How does that

1 work for you?

2 MR. YSURSA: I'm available on those dates, Your  
3 Honor.

4 THE COURT: All right. And then Mr. Godfrey?

5 MR. GODFREY: Judge, if we're talking about  
6 scheduling these in the afternoon, yes, those dates look  
7 acceptable.

8 THE COURT: All right. And then on Langley v.  
9 Kelly, Mr. Maag?

10 MR. T. MAAG: Either date would be acceptable,  
11 Your Honor. Thomas Maag. Question is whether it would be in  
12 East St. Louis or Benton. I assume East St. Louis.

13 THE COURT: It will be in beautiful downtown East  
14 St. Louis.

15 MR. T. MAAG: Very good.

16 THE COURT: Hopefully I'll be back in my chambers  
17 that got flooded six months ago or whatever it was, so check  
18 your local listings which courtroom we're in.

19 All right. So on the Federal Firearm Licensees  
20 of Illinois plaintiffs' counsel, the 12th or 13th?

21 MR. SHAW: This is Mark Shaw. I'm okay with  
22 either one. I would defer to my colleague Carl Michel because  
23 he's in California.

24 MR. MICHEL: Carl Michel for FFL Illinois  
25 Plaintiffs. Either date's fine, Your Honor. Wednesday or

1 Thursday would be great. If there's a choice, I'd take  
2 Wednesday.

3 THE COURT: All right. I'm sensing a consensus  
4 on Wednesday the 12th. Does anybody who's on have a problem  
5 with Wednesday, April the 12th? All right. We will set this  
6 for oral argument on Wednesday, April the 12th. I will probably  
7 give -- let me ask you. It sounds like for most of you, these  
8 cases have been cited on the briefs and not oral argument.

9 Ms. Murphy, since there's going to be oral  
10 argument, how much time do you think would be appropriate to  
11 extend to the plaintiffs?

12 MS. MURPHY: I'm not super familiar with  
13 Your Honor's practices, so I'm very happy to kind of defer to  
14 you in terms of what is a timeframe that seems reasonable to  
15 you.

16 MR. MICHEL: Carl Michel for FFL Illinois. Your  
17 Honor, I can represent that as a practical matter, what's  
18 happened in other courtrooms is it doesn't take much time to lay  
19 out the plaintiffs' case, but there kind of becomes a dialogue  
20 usually instigated by the Court as the Court focuses the lawyers  
21 to narrow the issues, and that takes longer than sort of a  
22 prepared, you know, a ten-minute oral argument or whatever.

23 THE COURT: But judges are longer-winded than the  
24 attorneys in these cases.

25 MR. MICHEL: They're just curious, Your Honor.

1 THE COURT: That's how we are.

2 Okay. Mr. Wells or Ms. Bautista?

3 MR. WELLS: Your Honor --

4 THE COURT: We're going to be talking about  
5 affidavits, history. How long do you think is necessary? I  
6 don't want to shortchange people. I want to give you the  
7 opportunity to make your arguments, make your record.

8 MR. WELLS: Your Honor --

9 THE COURT: How long do you think?

10 MR. WELLS: We appreciate that. Just based on  
11 picking up some of the comments from Mr. Michel and Ms. Murphy,  
12 which I think are accurate, that it's likely to be a dialogue at  
13 various points in time. I think being conservative, an hour per  
14 side, recognizing that a lot of it may be in dialogue as opposed  
15 to strictly allocated. That's at the high end. But that's kind  
16 of I think just similar to the briefing approach, making sure  
17 that everybody has the space they need to say what they need to  
18 say.

19 MR. MICHEL: Your Honor, Carl Michel. If I could  
20 ask a question. Is the Court going to have other things on its  
21 calendar that afternoon?

22 THE COURT: Not if I set this for two hours' oral  
23 argument. No, I plan to --

24 MR. MICHEL: Respectfully suggest --

25 THE COURT: -- give it the time it needs. So

1 I'll set aside the whole afternoon.

2 MS. MURPHY: This is Ms. Murphy --

3 THE COURT: If you want an hour-three, if you  
4 start repeating yourself, I'll have my clerk wake me up when you  
5 get back to making a point that's not repetitive.

6 Erin, you wanted to say something? Who was  
7 speaking?

8 MS. MURPHY: I was simply saying, I think  
9 Mr. Wells' proposal makes -- sounds about right to what was kind  
10 of in my head. Hopefully we'd be somewhere between a half-hour  
11 and an hour a side. So if we could --

12 THE COURT: Mr. Shaw?

13 MR. SHAW: Just to clarify, does it start at 1 or  
14 1:30?

15 THE COURT: 1:30.

16 MR. SHAW: And is it in East St. Louis or Benton?

17 THE COURT: East St. Louis.

18 MR. SHAW: Okay. Thank you.

19 THE COURT: If you're traveling from downtown St.  
20 Louis, once you cross the bridge, the courthouse in East St.  
21 Louis is probably less than three minutes, depending on what  
22 bridge. It's three minutes if it's the Poplar Street Bridge.  
23 It's two minutes if you use the Eads Bridge.

24 And I'll make the courtroom available in the  
25 morning or even before if people have -- we do have IT equipment

1 that's in the courtroom. If you have -- if you need to use IT  
2 as part of your presentation or arguments, and that might happen  
3 since I'm asking for schematics or depictions of what it is  
4 that's being restricted or outlawed in the present statute, that  
5 will be available earlier in the morning to run through your  
6 stuff with IT to make sure that it's keyed in with what we have.  
7 And I'll make IT available to talk to anybody by telephone in  
8 advance so that your IT wizards and our IT wizards can make sure  
9 that we have we've got equipment that works well together.

10 All right. Somebody else wanted to -- Mr. Maag,  
11 I think you were going to say something?

12 MR. T. MAAG: Oh, I was just agreeing as to the  
13 amount of time that I thought that oral argument would likely  
14 take.

15 THE COURT: My experience has been that in the --  
16 with -- complicated cases are a lot to go through at the trial  
17 court level where we're still trying to make a record. Oral  
18 arguments tend to go longer than oral arguments at the appellate  
19 court level where the record is fixed. And so I think an hour  
20 for each side is -- I'm very comfortable with that. If we have  
21 to go a little longer so that people are answering my questions,  
22 then we can do that.

23 In the meantime, I think -- or as we -- once the  
24 briefs are in, the lawyers should speak amongst themselves -- as  
25 I say, I've designated the lead case to be the Barnett case.

1 But if you guys decide amongst yourselves that certain lawyers  
2 are going to argue certain aspects and you're going to get X  
3 number of minutes to do that, I'm perfectly fine with that. The  
4 AG's Office should talk with the lawyers representing the county  
5 defendants to see if they need to -- need any time to make oral  
6 arguments or want to make some presentations.

7 MR. OWENS: Judge, could I just add one fact?  
8 This is Troy Owens from McHenry County.

9 THE COURT: Yes, sir.

10 MR. OWENS: As I reiterated in the briefing, and  
11 I mean this with great respect to my friends at the state level,  
12 I envision -- we're plaintiffs in the Northern District and  
13 we're defendants in Southern District. There's no reconciling  
14 our position with the state's position. So if -- I don't know  
15 if it's a friction to what you're proposing, but I anticipate  
16 vastly different arguments and different positions between at  
17 least our county and the state.

18 THE COURT: All right. Well, we'll figure out a  
19 way to get your two cents in, five cents in. And you're a party  
20 to the case so you'll be given the opportunity to present your  
21 arguments. We can cross that bridge as we get closer.

22 MR. OWENS: Yes, sir.

23 THE COURT: Yeah. All right. Anything else we  
24 need to -- so we're set for April the 12th at 1:30. Anything  
25 else for Plaintiffs in Barnett?



1 MS. MURPHY: Nothing else, Your Honor.

2 THE COURT: Anything else for Plaintiffs in  
3 Harrel?

4 MR. SIGALE: No, Your Honor.

5 THE COURT: Anything else for Plaintiffs in  
6 Langley?

7 MR. T. MAAG: No. Thank you.

8 MR. P. MAAG: Judge, this is Peter Maag. Just  
9 one clarification question.

10 THE COURT: Okay.

11 MR. P. MAAG: The 15-page page limit, I'm  
12 assuming that that's excluding exhibits; correct?

13 THE COURT: Yes, it is.

14 MR. P. MAAG: Very good. It was kind of spelled  
15 out in the proposed order. I just don't know that that was  
16 explicitly stated.

17 THE COURT: Well, I would -- as I said, I want  
18 you guys to -- I want a complete record. And so if you feel you  
19 need to file exhibits in response, I don't consider those part  
20 of the brief, the page limit on briefs.

21 All right. Anything else from the FFLI  
22 Plaintiffs?

23 MR. MICHEL: I don't -- Carl Michel. I don't  
24 believe so, Your Honor.

25 THE COURT: All right. How about for the AG's

1 Office?

2 MR. WELLS: Your Honor, this is Mr. Wells.

3 Just -- I would appreciate some clarification as to the date for  
4 filing for our -- what sounds like now consolidated brief. In  
5 the stipulation, we had proposed March 2nd, which I think was  
6 the date that we had in at least one of the cases. That date  
7 continues to be fine with us. We just didn't know whether it  
8 was going to be the earliest of the February 28th date or  
9 March 2nd, so --

10 THE COURT: No. I'm going to make everybody's --  
11 all defendants, your replies will be due March the 2nd.

12 MR. WELLS: Thank you, Your Honor.

13 THE COURT: Or response, I should say. And then  
14 reply briefs from the plaintiffs are 21 days after that.

15 MR. WELLS: And just again for the sake of  
16 clarification, we'll be addressing the Second Amendment issues  
17 that all plaintiffs raise, but not the Fifth Amendment and  
18 Fourteenth Amendment vagueness claims that are in I believe the  
19 case that was removed. I'm blanking on the name. But  
20 Mr. Maag's case.

21 THE COURT: That's --

22 MR. T. MAAG: Langley.

23 THE COURT: That's what the parties are agreeing  
24 to, I'm happy to do that. But at some point, we are going to  
25 have to address those.

1 MR. WELLS: We understand, Your Honor.

2 THE COURT: All right. And all right. Other  
3 than that, anything else from the AG's Office? All right.  
4 Anything else from the lawyers defending county officials?

5 MR. OWENS: Not for McHenry, Your Honor.

6 MR. YSURSA: Thomas Ysursa. Nothing, Your Honor.

7 THE COURT: All right.

8 MR. WELLS: Your Honor, I spoke too soon. I  
9 apologize. Just as clarification on when the state should  
10 answer otherwise plead, I think in the stipulation, we had  
11 proposed that the -- our date to answer all the various  
12 complaints would be after we file our consolidated response  
13 brief. I think we had proposed two weeks later, so I believe it  
14 was March 16th. We would just ask to have until that date to  
15 file our answers in respective cases and where appropriate, if  
16 we decide to do it, otherwise plead.

17 THE COURT: And that's fine with me because you  
18 guys had all agreed to that. Right? Yeah, so that's fine with  
19 me.

20 MR. WELLS: Thank you.

21 MR. SIGALE: Your Honor, I'm sorry, I do actually  
22 have one other tiny point. The Randolph County defendant, I  
23 think -- I think that's Mr. Ysursa's clients.

24 THE COURT: No. I think Mr. Ysursa has  
25 St. Clair. Randolph County, Randolph County -- it's Jim

1 Godfrey.

2 MR. SIGALE: Godfrey. Mr. Godfrey. It's my  
3 understanding that Mr. Walker is not actually the state's  
4 attorney in that county anymore, that it's someone named Kelley  
5 and not to be confused with State Police Director Kelly. This  
6 Mr. Kelley I believe is spelled K-e-l-l-e-y. I was just going  
7 to ask that we're all -- since we're all together, that under  
8 the appropriate federal rule, if the defendant -- the official  
9 capacity defendant could be substituted in standard and that  
10 could be reflected going forward, including on whatever  
11 responsive pleading that defendant files.

12 MR. GODFREY: Judge, I consent to that. I have  
13 no objection to that.

14 THE COURT: Yeah. That's something we can handle  
15 in a separate order if you guys want to do something, just an  
16 agreed substitution of party.

17 MR. SIGALE: Okay. I'll e-mail Mr. Godfrey and  
18 we'll figure out the easiest way to handle that.

19 MR. GODFREY: Great.

20 THE COURT: All right. Anything else?

21 MR. HILL: Your Honor, this is Keith Hill in the  
22 Langley case. For the county defendants in all the cases, will  
23 the March 16th date also be the date for us to answer or  
24 otherwise plead in response to the complaints?

25 THE COURT: Yes, sir.

1 MR. HILL: Thank you.

2 THE COURT: All right. Going once, going twice?  
3 Anything else from any of the attorneys? All right.

4 Well, thank you for your input and your patience.  
5 We'll see you on April the 12th. Again, if you anticipate using  
6 IT as part of your presentation and oral argument, contact my  
7 office and we can set you up with IT so you guys can get that  
8 set up in advance. I don't anticipate that I'll have -- I don't  
9 anticipate that I'll set anything else for hearing on that date.  
10 And so the courtrooms, if you're here earlier and you want to  
11 set up in the courtroom until the morning, that will be --  
12 that's perfectly fine with us.

13 All right. We are adjourned. Everyone enjoy  
14 your weekend.

15 (Proceedings concluded at 10:56 a.m.)

16  
17 . . . . .

18 **COURT REPORTER'S CERTIFICATE**

19 I certify that the foregoing is a correct  
20 transcript from the record of proceedings in the above-entitled  
21 matter.

22 Dated this 4th day of March, 2023

23 /s/ Hannah Jagler

24 \_\_\_\_\_  
25 Hannah Jagler, RMR, CRR, FCRR  
Official Court Reporter